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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,360	10/09/2001	Hiroyuki Nishi	33883	9002
116	7590	07/05/2005	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			TIEU, BENNY QUOC	
			ART UNIT	PAPER NUMBER
			2642	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,360

Applicant(s)

NISHI ET AL.

Examiner

Benny Q. Tieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1, 2, 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-7 and 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/3/01 & 2/20/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group II, claims 3-7 and 10-14 in the reply filed on May 2, 2005 is acknowledged. The traversal is on the ground(s) that the inventions in Group I and II both share a special technical feature, "the meaning information," so that the inventions have a technical relationship. This is not found persuasive because Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1. They lack the same or corresponding special technical features wherein Group I is for a transmitter and Group II is for a receiver.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1, 2, 8 and 9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention of Group I, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 2, 2005.

Drawings

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because foreign language in the drawings are required to be removed and replaced by English language. Foreign language in the drawings accompanied by an English translation is unacceptable. Applicant is advised to employ the services of a competent patent draftsman

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outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 3-7 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Logan et al. (U.S. Patent No. 5,721,827).

Regarding claims 3 and 10, Logan et al. teach a method and receiver having a receiving section for receiving a program, attribute information, and meaning information, a user attribute storing section for storing user attributes that are the attributes of a viewer, and an accumulation control section for storing part or whole of said program according to said attribute information that is interpreted based on said meaning information and said user attributes (column 2, lines 10-24 and column 10, line 38 to column 11, line 25).

Regarding claims 4 and 11, Logan et al. further teach the method and receiver having a separating section for separating said program, said attribute information, and said meaning information received by said receiving section (column 11, lines 26-35).

Regarding claims 5 and 12, Logan et al. further teach the method and receiver having an accumulation control function receiving section for receiving a program for executing a function of accumulating part or whole of said program and said accumulation control section operates based on said program received by said accumulation control function receiving section (column 21, line 54 to column 22, line 5).

Regarding claims 6 and 13, Logan et al. further teach the method and receiver wherein the means of said accumulation control function receiving section for receiving said program is means for receiving a broadcast, the receiver further having a determining section for determining whether said accumulation control function receiving section has failed to receive said program from said broadcast or not and an accumulation control function acquiring section for acquiring said program through a network when said determining section determines that the reception has failed (column 22, lines 15-44).

Regarding claims 7 and 14, Logan et al. further teach the method and receiver having a distribution time receiving section for receiving the time of distribution of said program, wherein said accumulation control function receiving section performs the receiving operation at a point in time associated with said distribution time (column 11, lines 8-20).

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawai et al. (U.S. Patent Application Publication No. 2004/0233861) teach a data transmission method, data transmitter, data receiver, data reception method and data transmission and reception system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benny Q. Tieu whose telephone number is (703) 305-2360. The examiner can normally be reached on Monday-Friday: 6:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**BENNY TIEU
PRIMARY EXAMINER**

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June 25, 2005